

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

UNITED STATES OF AMERICA,	)	AU:13-CR-00458(1)-DEW
	)	
Plaintiff,	)	
	)	
VS.	)	AUSTIN, TEXAS
	)	
FRANCISCO ANTONIO COLORADO CESSA,	)	
	)	
Defendant.	)	FEBRUARY 2, 2015

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TRANSCRIPT OF SENTENCING HEARING  
BEFORE THE HONORABLE DONALD E. WALTER  
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APPEARANCES:

FOR THE PLAINTIFF:

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Proceedings recorded by computerized stenography, transcript  
produced by computer.

08:58:34 1 (Open Court)

08:58:34 2 THE CLERK: The Court calls the following case for  
08:58:36 3 sentencing: A:13-CR-458-DEW, *United States of America v.*  
08:58:44 4 *Francisco Antonio Colorado Cessa.*

08:58:44 5 MR. GARDNER: Good morning Your Honor, Doug Gardner  
08:58:46 6 and Michelle Fernald for the United States.

08:58:48 7 MR. FLOOD: Good morning, Your Honor. Chris Flood,  
08:58:50 8 Charles Flood, John Cline and Kristin Etter.

08:58:53 9 THE COURT: Okay. I'll just use you, Mr. Flood,  
08:58:55 10 okay?

08:58:55 11 MR. FLOOD: Okay.

08:58:56 12 THE COURT: All right. If you -- can your client  
08:59:02 13 move around fairly easy?

08:59:06 14 MR. FLOOD: Certainly.

08:59:06 15 THE COURT: I'd like you to use the podium, please.

08:59:09 16 MR. FLOOD: Sure.

08:59:21 17 THE COURT: Mr. Cessa, you have received a copy of  
08:59:24 18 your presentence report; is that correct?

08:59:26 19 THE DEFENDANT: Yes.

08:59:29 20 THE COURT: And your -- your lawyer has filed certain  
08:59:34 21 objections. Are you familiar with those?

08:59:38 22 THE DEFENDANT: Yes, Your Honor.

08:59:40 23 THE COURT: Okay. All right. Your objections to  
08:59:43 24 paragraph 7, 9, 10 -- well, actually, through 16 plus 23 and 24  
08:59:50 25 I have read and I have noted them. They're mostly just

08:59:54 1 contrary to your plea. They have no effect on my sentence.

08:59:58 2 Your objection to 26 is overruled for the reasons  
09:00:03 3 stated. Your objection to 13 and 17 -- your objection 13 and  
09:00:10 4 17 which goes to paragraphs 28, 32, and 56 are overruled. The  
09:00:17 5 guideline range is correctly calculated. Your objection to  
09:00:20 6 paragraph 35 is overruled for the reasons stated. And your  
09:00:24 7 15th and 16th objection have been resolved.

09:00:28 8 If I may summarize, your objection to the 16-level  
09:00:31 9 enhancement for the value of the bribe is overruled. Your  
09:00:36 10 objection to the four-level enhancement for the offense  
09:00:40 11 involving the -- attempted bribery of a public official is  
09:00:44 12 overruled. Your objection to the two-level increase for being  
09:00:48 13 an organizer or leader is overruled. And your objection to the  
09:00:53 14 assessment of three criminal history points is also overruled.

09:00:58 15 Now, Mr. Flood, anything you want to say to me?

09:01:05 16 MR. FLOOD: No, Your Honor. I put it all in my  
09:01:07 17 papers.

09:01:08 18 THE COURT: All right. And I've read all those,  
09:01:10 19 including the government's voluminous filings as late as  
09:01:13 20 Sunday.

09:01:16 21 MR. FLOOD: And for the record, Your Honor, we object  
09:01:17 22 to the government's supplemental response that was filed on  
09:01:21 23 Saturday as well as their response that was filed, I believe,  
09:01:24 24 or sent to the Probation Department.

09:01:26 25 THE COURT: If it's any consolation, I didn't read

09:01:29 1 any of the one filed on Sunday. Anyway, Mr. Cessa, anything  
09:01:33 2 you want to tell me?

09:01:35 3 THE DEFENDANT: No, Your Honor.

09:01:40 4 THE COURT: All right. I'm going to adopt the  
09:01:42 5 factual findings of the Probation Office as is contained in the  
09:01:45 6 presentence report and addendum.

09:01:46 7 And pursuant to the Sentencing Reform Act of '84, it  
09:01:49 8 is the judgment of the Court that you be committed to the  
09:01:53 9 custody of the Bureau of Prisons for a term of 60 months as to  
09:01:56 10 count one. The term of imprisonment shall run consecutively to  
09:02:01 11 the term of the imprisonment imposed in Docket Number 12-210.

09:02:06 12 The sentence was imposed after considering the  
09:02:10 13 provisions of 3553(a), your personal history characteristics of  
09:02:18 14 the crime, and your prior record.

09:02:19 15 Upon release from imprisonment, you're placed on  
09:02:22 16 supervised release for a term of three years. That term will  
09:02:25 17 run concurrent to the term of supervised release imposed in  
09:02:31 18 Docket Number 12-210.

09:02:33 19 Within 72 hours of your release from custody, you are  
09:02:37 20 to report in person to the probation office in the district to  
09:02:41 21 which you are released. While you're on supervised release,  
09:02:43 22 you're not to commit another federal, state, or local crime and  
09:02:47 23 you're to comply with the mandatory and standard conditions  
09:02:50 24 adopted by this Court.

09:02:51 25 If you are to be deported or removed upon release

09:02:58 1 from imprisonment, the supervised release will be a  
09:03:00 2 non-reporting supervised release. Should you come back to the  
09:03:06 3 States, you are to report to the probation office -- the  
09:03:13 4 nearest probation office.

09:03:17 5 All the previous conditions imposed in 12-210 remain  
09:03:22 6 in full effect as previously ordered. You do have to pay a  
09:03:28 7 \$100 assessment which is due now. I'm not going to order a  
09:03:31 8 fine. There's no point in it.

09:03:33 9 You have the right to appeal. If there is a notice  
09:03:35 10 of appeal, the clerk will send the presentence report under  
09:03:39 11 seal to the Court of Appeals.

09:03:40 12 Is there anything else, Mr. Flood?

09:03:43 13 MR. FLOOD: Well, Your Honor, a couple of things. I  
09:03:45 14 just wanted to make sure the record was clear that by  
09:03:49 15 participating in this proceeding and by filing our sentencing  
09:03:53 16 memorandum, we in no way are abandoning our previous motion to  
09:03:57 17 withdraw his plea.

09:03:58 18 THE COURT: I understand, yes. And that is what I  
09:04:02 19 understand, and I understand you have -- you have already filed  
09:04:05 20 a notice of appeal but it was premature and the court of  
09:04:09 21 appeals is now awaiting you to tell them that we're here.

09:04:12 22 MR. FLOOD: Okay.

09:04:13 23 THE COURT: Right.

09:04:13 24 MR. FLOOD: And the only other thing, Your Honor, is  
09:04:17 25 the defendant's family lives in Houston, Texas -- or part of

09:04:20 1 his family does. We'd ask that the Court order him transferred  
09:04:24 2 to the federal detention center in the Southern District of  
09:04:28 3 Texas, Houston Division for now. And we'd also ask that the  
09:04:31 4 Court recommend to the Bureau of Prisons that he be housed at  
09:04:34 5 the Beaumont facility near his family.

09:04:38 6 THE COURT: Okay. I'm really not in a position to  
09:04:41 7 order Article 1 -- Article 2 around. But I will certainly  
09:04:45 8 recommend to the Bureau of Prisons that they take him down to  
09:04:50 9 Beaumont.

09:04:50 10 MR. FLOOD: Okay. And then, finally, Your Honor, his  
09:04:54 11 14-year-old son -- 15-year-old son, Jose Antonio is present in  
09:04:59 12 the courtroom with his mother.

09:05:01 13 THE COURT: Uh-huh.

09:05:02 14 MR. FLOOD: If the marshal would allow it, we ask  
09:05:04 15 that he be allowed to embrace his son temporary just to -- he  
09:05:08 16 hasn't done so in over two years, Your Honor.

09:05:10 17 THE COURT: Okay. Marshal, how far can we go?

09:05:17 18 THE MARSHAL: We don't do that in the courtroom.  
09:05:20 19 It's not usually our practice.

09:05:23 20 THE COURT: Can you handle that? Can you honor that  
09:05:25 21 request?

09:05:26 22 MR. FLOOD: I believe last time he was allowed to hug  
09:05:29 23 his wife, Your Honor.

09:05:34 24 THE COURT: Can we do that? He would like to hug his  
09:05:38 25 son.

09:05:38 1 THE MARSHAL: Real quick.

09:05:40 2 THE COURT: Okay. The marshals are in charge of  
09:05:43 3 that.

09:05:44 4 Anything else?

09:05:45 5 MR. FLOOD: One minute. No. I think we're okay,  
09:05:49 6 Your Honor.

09:05:49 7 THE COURT: All right. Anything from the government?

09:05:51 8 MR. GARDNER: Your Honor, based on the plea  
09:05:52 9 agreement, the government moves to dismiss the remaining counts  
09:05:54 10 in this case.

09:05:55 11 THE COURT: So ordered.

09:05:57 12 MR. FLOOD: Thank you, Your Honor.

09:05:58 13 THE COURT: Anything else?

09:05:59 14 MR. FLOOD: No, Your Honor.

09:05:59 15 THE COURT: Thank you all, gentlemen.

09:06:01 16 (End of transcript)

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1 **UNITED STATES DISTRICT COURT        )**

2 **WESTERN DISTRICT OF TEXAS            )**

3       I, Arlinda Rodriguez, Official Court Reporter, United  
4 States District Court, Western District of Texas, do certify  
5 that the foregoing is a correct transcript from the record of  
6 proceedings in the above-entitled matter.

7       I certify that the transcript fees and format comply with  
8 those prescribed by the Court and Judicial Conference of the  
9 United States.

10       WITNESS MY OFFICIAL HAND this the 6th day of  
11 February 2015.

12

13                                    /S/ Arlinda Rodriguez  
14                                   Arlinda Rodriguez, Texas CSR 7753  
15                                   Expiration Date: 12/31/2016  
16                                   Official Court Reporter  
17                                   United States District Court  
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